

Mayor Bill Seuell called the meeting to order at 7:00 p.m. Also present were Councilmembers Kay Carlquist, Robert Jurca, Mary Cooper, and Guy Pfalzgraff, along with City Manager Lanny Sloan and City Attorney Mike Schottelkotte. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

**Pledge of Allegiance**

The Mayor led everyone present in the Pledge of Allegiance.

**Changes to the Agenda**

There were none.

**Minutes**

It was moved by Councilmember Cooper and seconded by Councilmember Carlquist to approve the minutes of February 5, 2008, as submitted by the Clerk. All in favor, motion carried.

**Citizen Comments**

Linda Sorenson, representing the Colorado Timber Industry Association, asked Council to consider a \$1,000 sponsorship for the upcoming Logging Days competition.

Steve Werner of Colorado State Parks addressed Council concerning the Jennings Landing water tank proposal.

**Financial Report**

Finance Director Tod DeZeeuw presented the January financial report.

**Planning Commission Appointment**

It was moved by Councilmember Carlquist and seconded by Councilmember Jurca to appoint Gary Burnett to the 2-year term on the Planning Commission. All in favor, motion carried. [Note: a little more than two years was left on the term of the seat last filled by Marguerite Grace, who recently resigned.]

**Public Hearing: Local Historic Designation; Porter House at 604 E. 4<sup>th</sup> Street**

The Mayor recessed the regular meeting and opened the public hearing.

Recreation and Culture Director Wilma Erven introduced James Wetzel, Chairman of the Historic Preservation Task Force. Mr. Wetzel presented information concerning the historical background of Porter House, located at 604 E. 4<sup>th</sup> Street. Janet E. Tice, the current owner of the historic house, has requested that it be added to the local Register of Historic Places.

The Mayor asked for public comment, and when there was none, closed the public hearing and reconvened the regular meeting.

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to place Porter House at 604 E. 4<sup>th</sup> Street on the City's Historic Register. All in favor, motion carried.

**Liquor License Renewals: Davetos Italian Restaurant Beer & Wine License; Stockyards Restaurant Hotel/Restaurant Liquor License**

The Clerk reported that both applications are complete and that the required fees have been paid. The Police Department's reports indicate no problems with either licensee and recommend approval of both renewal applications.

It was moved by Councilmember Carlquist and seconded by Councilmember Pfalzgraff to approve Davetos Italian Restaurant Beer and Wine License renewal application and the Stockyards Restaurant Hotel/Restaurant Liquor License renewal application. All in favor, motion carried.

## **Regular Meeting, Delta City Council, February 19, 2008 (Cont.)**

### **Sunrise Meadows Preliminary Plat**

Community Development Director Glen Black reported that the Sunrise Meadows Subdivision is located on East 5<sup>th</sup> Street (G Road) at the corner of Clearview Drive. Owner William J. Jensen proposes to create 18 lots large enough for duplexes.

The Planning Commission reviewed the preliminary plat at their February 4<sup>th</sup> meeting and recommended approval subject to the following conditions:

- A sewer extension agreement must be entered into for off site improvements.
- Easements for off site improvements must be dedicated and recorded before construction begins.
- Minor redline corrections need to be made to the plat and construction drawings.
- Water tap fees must be paid before construction begins.
- Payment of the PILP fee must be received before the final plat is recorded.
- An HOA needs to be formed to provide for perpetual maintenance of common areas such as landscaping, fences and retention ponds.
- Compliance with the Planning Commission recommendation for a uniform six foot privacy fence to be constructed along 5<sup>th</sup> Street as shown on the plans, and also along the north and west sides of the property.
- Compliance with all applicable City of Delta requirements, standards and specifications.

In answer to a question from Council concerning earlier concerns expressed by neighboring property owners concerning this development, Mr. Black explained that the requirement for fencing recommended by the Planning Commission was in response to some of the earlier concerns expressed. However, no one from the neighborhood voiced any concerns at the Planning Commission meeting on February 4<sup>th</sup>.

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to approve the Sunrise Meadows Preliminary Plat as recommended by the Planning Commission. All in favor, motion carried.

### **Planning Commission Recommendation Concerning Fernando Estates Rezoning**

Community Development Director Black explained that applicant Platitanium Corp is requesting a change in zoning from A-1 to R1-A for this nine lot subdivision at 1695 H38 Road in order to allow higher density and manufactured homes.

Mr. Black stated that following the public hearing on the application on January 9, 2008, the Planning Commission recommended against approving the change in zoning. The review procedures outlined in the City Code (Section 17.04.290) require such recommendations to be submitted to the City Council who may "without further review implement such recommended change by adoption of a rezoning ordinance or take no action if no change is recommended, unless an appeal is filed...." Mr. Black reported that no appeal had been filed and recommended that Council take no action on this item.

It was moved by Councilmember Carlquist and seconded by Councilmember Jurca to take no action on this item. All in favor, motion carried.

### **Jennings Landing Water Tank Proposal**

The Community Development Director explained that staff is seeking feedback from City Council concerning developer Grace Homes' proposal for a water tank to feed the Jennings Landing Subdivision located on E Road adjacent to Sweitzer Lake State Park.

The original proposal was for a 17' diameter x 129' tall tank. However, earlier today, the developer submitted a different proposal in response to comments from the public and the Planning Commission. The new proposal features a lower profile tank (31' diameter x 39' tall). Mr. Black explained that while the lower profile tank would not require a variance (required for the taller tank), it would require construction of a pump station which would need to be operated around the clock. Operation and maintenance of the pump station would be a long-term responsibility for the City. He added that due to the late submittal of the second proposal, staff has not had time to evaluate it.

Using Power Point, Jim Atkinson of Jehn Engineering showed those present pictures of both water tanks for comparison purposes.

## **Regular Meeting, Delta City Council, February 19, 2008 (Cont.)**

### **Jennings Landing Water Tank Proposal (Cont.)**

After considerable discussion, Council asked staff to look into the details of the second proposal and respond at a later date.

Steve Werner of Colorado State Parks commented that from the point of view of State Parks, the proposal featuring the low profile tank is “a big improvement.”

### **Planning Commission Recommendations on Various Code Changes**

Director Black presented proposed changes to the City Code designed to improve consistency within the Code and to create a process by which adopted PUD plans may have major modifications approved. The Planning Commission reviewed the proposed changes at their February 4<sup>th</sup> meeting and recommended them to City Council.

Mr. Black went on to explain that major changes to a PUD plan would essentially mean a new submittal of the entire plan coupled with a public review process requiring notice to owners of record within the existing PUD and all property owners of record adjacent to the PUD within five hundred feet plus the width of any intervening right-of-way. Submittal of a new plan would, of course, not mean automatic approval of the change.

It was moved by Councilmember Jurca and seconded by Councilmember Jurca to direct staff to make the Code changes as outlined in Mr. Black’s memo. All in favor, motion carried.

### **Hawkins/Myers Water Lease Renewal**

Assistant City Manager Steve Glammeyer explained that the City has historically had a lease with the Austin family for City-owned Grand Mesa water in the Maude S. Ditch and Doughspoon Creek for use as stock water. After the death last year of Arlin Austin, the lease was assumed by other family members – Lydia Hawkins and Varra Sue Myers. Ms. Hawkins and Ms. Myers would like to continue the lease for 2008 under the same terms and conditions as the 2007 lease.

It was moved by Councilmember Cooper and seconded by Councilmember Carlquist to enter into the lease agreement with Ms. Hawkins and Ms. Myers for the use of City water on the Grand Mesa for the purposes of stock water. All in favor, motion carried.

### **Huffington Land Lease Renewal**

The Assistant City Manager reported that the City has leased the property adjacent to the wastewater treatment plant for several years to Bonsall Huffington who uses it to graze livestock. Last year, the lease was put out for bid, and Mr. Huffington was the only one who expressed an interest, so it was leased to him again in 2007. He has expressed an interest in leasing it on the same terms and conditions again in 2008.

It was moved by Councilmember Carlquist and seconded by Councilmember Jurca to enter into a lease agreement with Bonsall Huffington for the use of City-owned property adjacent to the wastewater treatment plant for the purpose of grazing livestock. All in favor, motion carried.

### **Proposal to Amend Original Agreement in Order to Purchase Additional Property Adjacent to the Devil’s Thumb Golf Course Property**

City Manager Sloan noted that the City has a contract in place with Paradise Hills, LLC (Bray & Company) to purchase the land owned by the City known as the Devil’s Thumb Golf Course property. Paradise Hills has now offered to purchase two additional pieces of property, with the knowledge that currently, the City does not own this property or have the right to sell it, although it may have that right in the future.

The land in question is currently owned by the Bureau of Land Management (BLM). The City controls one parcel by virtue of a patent with the BLM, and a possible trade involving the Upper White Ranch for the other parcel is under discussion with the BLM.

Manager Sloan discussed the terms of the proposed agreement which includes a clause to adjust the price each year, with the final price being dependent on the date of closing of the sale of the property.

## **Regular Meeting, Delta City Council, February 19, 2008 (Cont.)**

### **Proposal to Amend (Cont.)**

In answer to a question from Mayor Seuell, the Assistant City Manager explained that the City has had conversations with BLM representatives about acquiring the property under patent. The process is lengthy; however, BLM appears to be willing to pursue it. However, if the fair market value of the property exceeds the amount offered by Paradise Hills, the City would be “locked in” to the contract amount.

Councilmember Jurca pointed out that the existing contract with Paradise Hills, which was recently extended, contains a “first right of refusal” clause which would apply to the BLM property.

City Attorney Schottelkotte recommended that if Council were to agree to this proposal, a separate contract should be written rather than amending the existing contract.

Kevin Bray reviewed Paradise Hills’ reasons for extending the original contract, and their reasons for asking for the amendment. Mr. Bray pointed out that under the existing contract, Paradise Hills has a first right of refusal for ten years. He added that he would have no objection to writing a separate contract as suggested by the City Attorney.

It was moved by Councilmember Cooper and seconded by Councilmember Pfalzgraff to table the proposal pending further investigation. All in favor, motion carried.

### **Proposal for Business Enhancement Services**

City Manager Sloan reported that the City has included \$68,996 in the 2008 budget to be used for providing business enhancement services to businesses in the City. For the past several years, the Delta Area Chamber of Commerce has provided these services. Staff believes that this service should be accountable to the City, and that the Director of Business Enhancement should report directly to the City Manager.

If Council approves staff’s proposal, a final job description will be developed, applications for the business enhancement position will be taken, and a Director will be hired. Staff will set out duties, responsibilities and objectives for the Director. Manager Sloan outlined specific duties and a proposed budget.

Randy Sunderland, representing the Chamber of Commerce, argued that the business enhancement function should remain under the direction of the Chamber of Commerce. He reported that steps have been taken under the new Chamber Board to answer the concerns previously expressed by Council and City staff concerning the use of the business enhancement funds.

Councilmembers Jurca and Cooper indicated that they still have serious concerns about accountability for the use of the funds.

It was agreed that the Chamber’s accountant needs to meet with Finance Director Tod DeZeeuw. Then a work session will be set up with the Chamber. The Chamber Board members present agreed that they need to know what Council wants. Council agreed that they want to be shown a business enhancement program.

### **Ordinance #1, 2008; Second and Final Reading; Sale of Vacant Land Located at 625 Eleventh Street Hill**

Ordinance #1, 2008

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
AUTHORIZING THE SALE OF CERTAIN VACANT LAND  
LOCATED AT 625 ELEVENTH STREET HILL IN THE CITY OF  
DELTA, COLORADO

was introduced as Council Bill #1, 2008, and read by the Clerk.

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Carlquist to adopt Council Bill #1, 2008, on second and final reading. Roll call vote: Councilmembers Carlquist, aye; Jurca, aye; Cooper, aye; Pfalzgraff, aye; and Seuell, aye. Council Bill #1, 2008 was adopted on second and final reading as Ordinance #1, 2008.

**Regular Meeting, Delta City Council, February 19, 2008 (Cont.)**

**Council Bill #2, 2008; Second Reading; Sale of Vacant Land Located at 629 Eleventh Street Hill**

Ordinance #2, 2008

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
AUTHORIZING THE SALE OF CERTAIN VACANT LAND  
LOCATED AT 629 ELEVENTH STREET HILL IN THE CITY OF  
DELTA, COLORADO

Was introduced as Council Bill #2, 2008 and read by the Clerk.

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to adopt Council Bill #2, 2008 on second and final reading. Roll call vote: Councilmembers Carlquist, aye; Jurca, aye; Cooper, aye; Pfalzgraff, aye; and Seuell, aye. Council Bill #2, 2008 was adopted on second and final reading as Ordinance #2, 2008

**City Attorney Comments**

There were none.

**City Manager Comments**

There were none.

**Councilmember Comments**

Councilmember Carlquist reported attending the Delta Housing Authority Board meeting on February 13, 2008. Jo Rosenquist has resigned from the Board to accept the position of Interim Executive Director. Ms. Carlquist further reported that DHA was the recipient of a \$1,000,000 grant from the Colorado Division of Housing.

Ms. Carlquist also reported attending a meeting of the Comp Plan Steering Committee.

Councilmember Cooper reported attending a meeting of the Airport Advisory Committee and the County Commissioners at which the airport overlay district was discussed. Ms. Cooper had also attended a meeting with Senator Salazar.

Councilmember Pfalzgraff noted that "mud and flood" season is coming up. He wondered what flood control measures are being considered for the spring. The City Manager responded briefly about measures already in place for the flood season.

**Executive Session**

It was moved by Councilmember Carlquist and seconded by Councilmember Jurca to convene an Executive Session or a conference with the City's attorney (Jim Brown) for the purpose of receiving legal advice on specific legal questions under CRS Section 24-6-402(4)(b); or more specifically, receiving legal advice on the Black Canyon water case. All in favor, motion carried.

At 8:46 p.m., the regular meeting was recessed. The Executive Session was convened a short time later.

At 9:21 p.m., the Mayor reconvened the regular meeting and announced that the Executive Session had been concluded. He stated that in addition to himself, the participants in the Executive Session were Councilmembers Kay Carlquist, Robert Jurca, Mary Cooper and Guy Pfalzgraff, along with City Manager Lanny Sloan, Attorney Jim Brown, and Deputy City Clerk Jolene Nelson. For the record, the Mayor asked any person participating in the Executive Session who believed that any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session in violation of the Open Meetings Law, to state his or her concerns for the record. No concerns were stated.

The meeting was adjourned at 9:22 p.m.

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Mary Lynn Williams, CMC, City Clerk